

This checklist was developed for use by examiners as part of policy and forms review.

Individual Whole Life Insurance Applications

Form Number _____

If the application form was previously approved, date of approval _____

Note that if the application form was previously approved, it still must be submitted to make the filing complete.

All provisions of law relative to the filing of policy forms shall also apply to all applications designed to be attached to such policy forms and when so attached to constitute a part of the contract. *M.G.L. c. 175 § 192*

___ Any policy that contains a reference to the application, either as a part of the policy or as having any bearing thereon, must include the application for review, for the application is a part of the policy. *M.G.L. c. 175, §§ 131 and 192*. No life company shall issue any policy of life insurance except upon a written application therefor signed or assented to in writing by the person to be insured. *M.G.L. c. 175 § 123*

___ The application must achieve a minimum Flesch score of 50. The Flesch score for each form must be stated in the certification: a statement to the effect that the score exceeds 50 is not permitted. *M.G.L. c. 175, § 2B*

The use of AIDS-related information

___ application may not contain questions regarding counseling about AIDS or ARC or the sexual orientation of the applicant or proposed insured, policyholder or beneficiary. *211 CMR 36.08(1)*

___ application may ask whether the applicant or proposed insured has received a positive AIDS-related test result (other than an anonymous result obtained under the auspices of the Alternative Testing Sites of the Mass. Dept. of Public Health or the American Red Cross), whether he/she has received a medical diagnosis of or medical treatment for AIDS or ARC by a medical professional, and information about such diagnosis or treatment. *211 CMR 36.08(2)*

___ questions on application forms may be diagnostic or factual in nature, concerning whether an individual has been diagnosed or treated for AIDS or ARC. *211 CMR 36.08(3)*

___ questions cannot be subjective, vague, unfairly discriminatory, overly technical or ask for the opinion of the applicant or proposed insured. *211 CMR 36.08(3)*

___ if the application uses the terms “AIDS” “ARC” or “HIV” they must be defined or spelled out.

*The use of genetic testing or genetic information
All of this section should be cited as M.G.L. c. 175, § 120E*

___ Does the application refer to genetic tests?

___ yes ___no
If “no,” skip the rest of this section

- ___ “Genetic test” must be defined as “a test of human DNA, RNA, mitochondrial DNA, chromosomes or proteins for the purpose of identifying genes, inherited or acquired genetic abnormalities, or the presence or absence of inherited or acquired characteristics in genetic material, which are associated with a predisposition to disease, illness, impairment or other disease processes.” The term “genetic test” shall not include tests given for drugs, alcohol, cholesterol, or HIV; any test for the purpose of diagnosing or detecting an existing disease process; any test performed due to the presence of symptoms, signs or other manifestation of a disease, illness, impairment; or other disease process or any test, that is taken as a biopsy, autopsy, or clinical specimen solely for the purpose of conducting an immediate clinical or diagnostic test that is not a test of DNA, RNA, mitochondrial DNA, chromosomes or proteins.
- ___ No insurer may require an applicant to undergo a genetic test as a condition of the issuance of a life insurance policy.
- ___ An application may ask whether or not the applicant has taken a genetic test.
- ___ The application must state that the applicant is not required to answer any questions concerning genetic testing or genetic information.
- ___ There must be a statement informing the applicant that:
- ___ failure to answer the questions may result in an increased rate or denial of coverage.
- ___ if the applicant chooses to submit genetic information, the insurer is authorized to use that information to set the terms of a policy provided that such information is reliable information relating to the insured’s mortality or morbidity, based on sound actuarial principles, or actual or reasonably anticipated experience.

Fraud Warning

- ___ Does the application contain a fraud warning?
- ___ yes ___ no (**Note: Massachusetts does not require a fraud warning**)
- ___ If yes, its wording must comply with
- ___ the NAIC model language:
- “ Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.”
- OR
- ___ language required by one of the states that require specific language
- ___ must identify the state
- ___ must present support for using that state’s language on a Massachusetts form.
- ___ cannot use any state language that is specific to that state; *e.g.*, Florida states that a fraudulent statement is “a felony of the third degree.” This is not true of Massachusetts and the Florida warning could not, therefore, be used here.

Application form must conform to requirements of M.G.L. c. 175I and c. 176D re: information and privacy protection

___ **Compliance with § 4:**

A notice of information practices must be provided to all applicants no later than at the time the application for insurance is made. The notice must be in writing and must contain **EITHER**

the following:

- ___ whether personal information may be collected from persons other than the individual proposed for coverage; *c. 175I § 4(b)(1)*
- ___ the type of personal information that may be collected and the type of source and investigative technique that may be used to collect such information; *§ 4(b)(2)*
- ___ the type of disclosure permitted by chapter 175I and the circumstances under which such disclosure may be made without prior authorization: provided, however, that only such circumstances need be described which occur with such frequency as to indicate a general business practice; *§ 4(b)(3)*
- ___ a description of the rights established under sections eight, nine and ten of c. 175I and the manner in which such rights may be exercised: *§ (4)(b)(4)*
 - ___ Section 8 describes the right of an individual to obtain any personal information collected or maintained by the insurer upon written request, including any persons to whom the insurer has disclosed the information, and procedures by which such information may be corrected, amended, or deleted.
 - ___ Section 9 describes the right of an individual to have factual errors corrected and any misrepresentation or misleading information amended or deleted upon written request.
 - ___ Section 10 describes the right of an individual to receive the specific reason for an adverse underwriting decision in writing.
- ___ that information obtained from a report prepared by an insurance-support organization may be retained by the insurance-support organization and disclosed to other persons. *§ 4(b)(5)*

OR

- ___ an abbreviated notice may be used that informs the applicant that:
 - ___ personal information may be collected from a person other than the individual proposed for coverage; *§ 4(c)(1)*
 - ___ such information as well as other personal or privileged information subsequently collected by the insurance institution or insurance representative may in certain circumstances be disclosed to a third party without authorization; *§ 4(c)(2)*
 - ___ a right of access and correction exists with respect to all personal information collected; *§ 4(c)(3)*
 - ___ the more detailed notices described above will be furnished to the applicant upon request. *§ (4)(c)(4)*

___ **Compliance with chapter 175I § 6:**

Disclosure authorization form must meet the following requirements of § 6:

- ☐ 1. is written in plain language
- ☐ 2. is dated
- ☐ 3. specifies the types of persons authorized to disclose information about the individual
- ☐ 4. specifies the nature of the information to be disclosed
- ☐ 5. names the insurance company and identifies by generic reference the person to whom the applicant is authorizing information to be disclosed.
- ☐ 6. specifies the purposes for which the information is collected.
- ☐ 7. specifies that the authorization shall be valid for no longer than thirty months from the time it is signed
- ☐ 8. advises the applicant that s/he is entitled to receive a copy of the authorization form.

Electronic signatures

☐ Does the carrier contemplate using electronic signatures?

☐ yes ☐ no

The Division allows for electronic signature capture only when the application process involved and the software used can ensure the security of the consumer and the integrity of the sales process.

If yes, there must be a document explaining the procedure for signature capture and the security measures taken, including at a minimum:

- ☐ The physical arrangements and actual presentation of data must be identical to the application form approved by the Division.
- ☐ The signatures of the applicant and enroller must be displayed on the computer screen in real time.
- ☐ Once accepted, the application record and signature must be bound in a single record.
- ☐ "Awareness protection" must include confirmation dialogue that the signer understands precisely the intentions of the signature and must provide visual confirmation of the actual signing.
- ☐ The encryption and storage of the signature and reviewed data to which it is attached must be automatic. Through encryption, the bonded signature and data cannot be changed without recognition of the fact that it was changed.
- ☐ The software system must automatically purge electronic signatures from the file once the policy has been issued, to prevent the use of the signature for any purpose other than those specific to issuance of the policy.
- ☐ A form, with a form number, must be given to prospective policyholders which explains the procedure and the security measures.

COLI Products

M.G.L. c. 175 § 123A states that an employer may have an insurable interest in the lives of its employees; this includes the trustee of a trust established by the corporation. If the product is intended to be a COLI product (corporate owned life insurance) the application must contain:

- ☐ A clear statement that the employer is the beneficiary of the policy.

In addition, the carrier must submit for approval:

- A consent form to be signed by the employee, that clearly discloses the nature of the policy, and that the employee has no rights of ownership including the choice of beneficiary.

Requirements for replacement

Is the application for any of the following?

- ☐ proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;
- ☐ internal replacements where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control; provided, however, that agents or brokers proposing replacement shall comply with the requirements of agents who initiate the application;
- ☐ insurance paid for wholly or partly by the insured's employer or by an association of which the insured is a member, or insurance in a qualified pension, profit sharing or other benefit plan;
- ☐ life insurance policies issued in connection with a pension, profit sharing or other benefit plan qualifying for tax deductibility of premiums.

If yes to any of the above, 211 CMR 34.00 (i.e., the following section) does not apply.

Each application must contain (with or part of each application):

- ☐ a statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction. *211 CMR 34.04(1)(a)*
- ☐ a signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction. *211 CMR 34.04(1)(b)*
 - ☐ a request for a list of all existing life insurance and annuity to be replaced identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, can be listed. *211 CMR 34.04(2)(b)*
- ☐ a provision that advises the applicant that the agent is required to leave with the applicant the original or a copy of written or printed communications used for presentation to the applicant. *211 CMR 34.04(2)(c)*
- ☐ a provision that advises the applicant that the agent is required to submit to the replacing insurer with the application a copy of the replacement notice *211 CMR 34.04(2)(d)*